

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *dy* D.C.
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THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
WD OF TENN. MEMPHIS

UNITED STATES OF AMERICA,

Plaintiff,

v.

05
No. ~~03~~-20077 B

CAROLYN KIRK-WIGGLY,

Defendant.

ORDER DENYING DEFENDANT'S MOTION TO DISMISS INDICTMENT

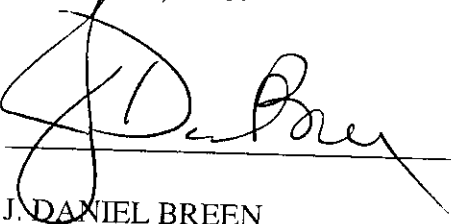
Before the Court is the October 26, 2005 motion of the Defendant, Carolyn Kirk-Wiggly, to dismiss her indictment pursuant to Rule 12 of the Federal Rules of Criminal Procedure. Defendant was indicted on March 8, 2005, charging her with a violation of 21 U.S.C. § 841(a)(1), possession with intent to distribute and distribution of a controlled substance. Based on a review of discovery provided by the government, Kirk-Wiggly alleges that there is "no credible or competent evidence that could have been presented to the grand jury upon which this indictment is based" and, on this basis, requests that her indictment be dismissed. (Def.'s Mot. at 1.)

An indictment valid on its face is not subject to challenge on the grounds that the grand jury acted on insufficient evidence. See United States v. Arana, 13 F.Supp.2d 613, 614 (E.D. Mich. 1998), aff'd, 2002 WL 31269661 (6th Cir. Oct. 9, 2002), cert. denied, 537 U.S. 1076, 123 S.Ct. 667, 154 L.Ed.2d 574 (2002). As Plaintiff does not allege any deficiency with the indictment,¹ nor is the

¹ Defendant has not alleged that the indictment does not include the elements of the offense intended to be charged, fails to notify her of what she must be prepared to meet, or did not permit her to invoke a former conviction or acquittal in the event of a subsequent prosecution. See United States v. Cor-Bon Custom Bullet Co., 287 F.3d 576, 579 (6th Cir.), cert. denied, 537 U.S. 880, 123 S.Ct. 90, 154 L.Ed.2d 136 (2002).

Court aware of one, her motion must be DENIED.

IT IS SO ORDERED this 31 day of November, 2005.



J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE



Notice of Distribution

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US DISTRICT COURT